

SENATE BILL 746

C5, P1

2lr2352
CF HB 1087

By: **Senator Middleton**

Introduced and read first time: February 3, 2012

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Telecommunications~~ **Communications Companies – Universal Service Trust**
3 **Fund – Surcharge**

4 FOR the purpose of expanding the services that are subject to the Universal Service
5 Trust Fund surcharge; requiring that a certain surcharge be applied to certain
6 bills and be payable at a certain time; altering the maximum amount of a
7 certain surcharge; providing that a certain surcharge is payable by account;
8 requiring the ~~Public Service Commission~~ Secretary of Information Technology
9 to direct certain companies to add the surcharge to certain bills for certain
10 services under certain circumstances; providing that the money in the Fund
11 may only be used for certain purposes; requiring the Public Service Commission
12 to determine a certain surcharge annually for the following fiscal year;
13 requiring the Commission to set and adjust a certain surcharge in a certain
14 manner and under certain circumstances; requiring that certain funds be
15 carried forward in the Fund for a certain purpose; requiring certain companies
16 to act as collection agents for the Fund and to remit certain proceeds to the
17 Comptroller for deposit in the Fund; providing certain companies a certain
18 credit against certain proceeds; providing that this Act may not be construed to
19 expand the jurisdiction of the Commission in any manner over certain services;
20 defining certain terms; making certain technical changes; and generally relating
21 to the Universal Service Trust Fund surcharge on certain ~~telecommunications~~
22 communications services.

23 BY repealing and reenacting, without amendments,

24 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 3A-501(a) and (c), 3A-504(a), 3A-601(a) and (c), 3A-602(a), and 3A-606
 2 Annotated Code of Maryland
 3 (2009 Replacement Volume and 2011 Supplement)

4 BY adding to
 5 Article – State Finance and Procurement
 6 Section 3A-501(g) and ~~(i)~~ (h)
 7 Annotated Code of Maryland
 8 (2009 Replacement Volume and 2011 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – State Finance and Procurement
 11 Section 3A-501(g) and 3A-506
 12 Annotated Code of Maryland
 13 (2009 Replacement Volume and 2011 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – State Finance and Procurement**

17 3A-501.

18 (a) In this subtitle the following words have the meanings indicated.

19 (c) “Dual party telephone relay program” means a service that provides full
 20 and simultaneous communication between a person or persons with a disability that
 21 prevents them from using a standard telephone and a person or persons without that
 22 disability using conventional telephone equipment or other technology or equipment,
 23 whereby the disabled person or persons have their message relayed through an
 24 intermediary party using specialized telecommunications equipment.

25 ~~(G) “TELECOMMUNICATIONS COMPANY” MEANS A COMPANY THAT:~~

26 (G) “COMMUNICATIONS COMPANY” MEANS:

27 (1) ~~IS:~~

28 ~~(H) A PUBLIC SERVICE COMPANY, AS DEFINED IN §~~
 29 ~~1-101 OF THE PUBLIC UTILITIES ARTICLE; OR~~

30 ~~(H) A WIRELESS COMMUNICATIONS COMPANY; OR~~

31 ~~(H) AN INTERNET PROTOCOL TELEPHONY COMPANY; AND~~

~~(2) (1) PROVIDES FOR THE RECEPTION, TRANSMISSION, OR COMMUNICATION OF MESSAGES BY TELEPHONE OR OTHER DEVICE; OR~~

~~(H) LEASES, SELLS, OR RESELLS TELEPHONE OR TELECOMMUNICATIONS SERVICE.~~

(2) ANY COMPANY THAT PROVIDES A COMMUNICATIONS SERVICE.

(H) "COMMUNICATIONS SERVICE" MEANS:

(1) LANDLINE TELEPHONE SERVICE;

(2) WIRELESS OR CELLULAR TELEPHONE SERVICE; OR

(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8-601 OF THE PUBLIC UTILITIES ARTICLE.

[(g)] ~~(H)~~ (1) "Telecommunications device for the deaf" or "TDD/TT/TTY" means all types of mechanical devices that enable disabled individuals to communicate through messages sent and received through a telephone or wireless network.

~~(H) "TELECOMMUNICATIONS SERVICE" MEANS:~~

~~(1) LANDLINE TELEPHONE SERVICE;~~

~~(2) WIRELESS TELEPHONE SERVICE; OR~~

~~(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8-601 OF THE PUBLIC UTILITIES ARTICLE.~~

3A-504.

(a) The Department in consultation with the Board shall:

(1) establish and administer a program to provide cost-efficient, 24-hour, dual party relay service to program participants at a comparable level of access and quality that a standard telecommunication service provides to a person without a hearing or speech disability;

(2) develop the program in collaboration with State programs currently serving disabled individuals and with community agencies or other organizations that have established relay programs; and

(3) maintain an information and referral service to provide information about the availability of the relay service.

1 3A-506.

2 (a) The programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this
3 title shall be funded as provided in the State budget.

4 (b) (1) There is a Universal Service Trust Fund created for the purpose of
5 paying the costs of maintaining and operating the program under § 3A-504(a) of this
6 subtitle subject to the limitations and controls provided in this subtitle, and the
7 program under § 3A-602(a) of this title subject to the limitations and controls provided
8 in Subtitle 6 of this title.

9 (2) Moneys in the Universal Service Trust Fund shall be held in the
10 State Treasury.

11 (3) MONEY IN THE UNIVERSAL SERVICE TRUST FUND MAY ONLY
12 BE USED:

13 (I) TO FUND THE COSTS OF THE PROGRAMS SPECIFIED IN
14 PARAGRAPH (1) OF THIS SUBSECTION; AND

15 (II) TO PAY FOR THE ADMINISTRATION OF THE UNIVERSAL
16 SERVICE TRUST FUND.

17 (c) (1) The costs of the programs under § 3A-504(a) of this subtitle and §
18 3A-602(a) of this title shall be funded by revenues generated by:

19 (I) a surcharge to be paid by the subscribers to [switched local
20 exchange access] A ~~TELECOMMUNICATIONS~~ COMMUNICATIONS service; and [by]

21 (II) other funds as [the] **PROVIDED IN THE STATE** budget [may
22 provide].

23 (2) (I) The surcharge may not exceed ~~45~~ **35** cents per month **FOR**
24 **EACH ACCOUNT** and shall be applied to all current bills rendered for [switched local
25 exchange access] ~~TELECOMMUNICATIONS~~ A COMMUNICATIONS service in the State.

26 (II) The surcharge is payable at the time the bills for [telephone]
27 ~~TELECOMMUNICATIONS~~ A COMMUNICATIONS service are due.

28 (3) THE SURCHARGE TO BE COLLECTED UNDER THIS SECTION
29 ONLY APPLIES TO A COMMUNICATIONS SERVICE FOR WHICH CHARGES ARE
30 BILLED BY, OR ON BEHALF OF, A COMMUNICATIONS COMPANY TO A SUBSCRIBER
31 OF THE COMMUNICATIONS SERVICE.

1 (d) (1) The Secretary shall annually certify to the Public Service
 2 Commission the costs of the programs under § 3A-504(a) of this subtitle and §
 3 3A-602(a) of this title to be paid by the Universal Service Trust Fund **FOR THE**
 4 **FOLLOWING FISCAL YEAR.**

5 (2) (I) The Public Service Commission shall determine the
 6 surcharge **FOR THE FOLLOWING FISCAL YEAR** necessary to fund the programs under
 7 § 3A-504(a) of this subtitle and § 3A-602(a) of this title [and].

8 (II) 1. **IN ACCORDANCE WITH SUBSECTION (C)(2) AND**
 9 **SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE**
 10 **COMMISSION SHALL SET THE SURCHARGE FOR THE FOLLOWING FISCAL YEAR**
 11 **AT AN AMOUNT THAT IS NO HIGHER THAN NECESSARY TO GENERATE**
 12 **SUFFICIENT REVENUES TO FUND THE COSTS OF THE PROGRAMS FOR THE**
 13 **FOLLOWING FISCAL YEAR, AS CERTIFIED UNDER PARAGRAPH (1) OF THIS**
 14 **SUBSECTION.**

15 2. **IN SETTING THE SURCHARGE UNDER**
 16 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE**
 17 **COMMISSION SHALL TAKE INTO ACCOUNT WHETHER THE SURCHARGE MAY BE**
 18 **ADJUSTED AS A RESULT OF ANY UNCOMMITTED FUNDS IN THE UNIVERSAL**
 19 **SERVICE TRUST FUND AT THE END OF THE FISCAL YEAR THAT MAY BE USED TO**
 20 **FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR.**

21 (3) ~~(H)~~ ~~THE PUBLIC SERVICE COMMISSION SECRETARY~~ shall,
 22 on 60 days' notice, direct the affected [telephone] ~~TELECOMMUNICATIONS~~
 23 ~~COMMUNICATIONS~~ companies ~~THAT ARE PUBLIC SERVICE COMPANIES~~ to add the
 24 surcharge DETERMINED BY THE PUBLIC SERVICE COMMISSION UNDER
 25 PARAGRAPH (2) OF THIS SUBSECTION to all current bills rendered for [switched
 26 local exchange access] ~~TELECOMMUNICATIONS~~ COMMUNICATIONS service in the
 27 State.

28 ~~(H) 1. IN ACCORDANCE WITH SUBSUBPARAGRAPH 2 OF~~
 29 ~~THIS SUBPARAGRAPH, THE SECRETARY SHALL, ON 60 DAYS' NOTICE, DIRECT~~
 30 ~~THE AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC~~
 31 ~~SERVICE COMPANIES TO ADD THE SURCHARGE TO ALL CURRENT BILLS~~
 32 ~~RENDERED FOR TELECOMMUNICATIONS SERVICE IN THE STATE.~~

33 ~~2. THE AMOUNT OF THE SURCHARGE ADDED TO~~
 34 ~~CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE~~
 35 ~~NOT PUBLIC SERVICE COMPANIES SHALL BE THE SAME AMOUNT AS THE~~
 36 ~~AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED~~
 37 ~~TELECOMMUNICATIONS COMPANIES THAT ARE PUBLIC SERVICE COMPANIES.~~

1 (e) (1) The affected [telephone] ~~TELECOMMUNICATIONS~~
2 COMMUNICATIONS companies shall act as collection agents for the Universal Service
3 Trust Fund and shall remit all proceeds monthly to the Comptroller for deposit to the
4 Universal Service Trust Fund.

5 (2) The [telephone] ~~TELECOMMUNICATIONS~~ COMMUNICATIONS
6 companies shall be entitled to credit against these proceeds in an amount equal to 1
7 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting
8 the surcharge and any additional charges.

9 (f) (1) The Secretary shall administer the Universal Service Trust Fund.

10 (2) The income derived from investment of money in the UNIVERSAL
11 SERVICE TRUST Fund shall accrue to the UNIVERSAL SERVICE TRUST Fund.

12 **(3) ANY FUNDS REMAINING AT THE END OF A FISCAL YEAR IN THE**
13 **UNIVERSAL SERVICE TRUST FUND SHALL BE CARRIED FORWARD WITHIN THE**
14 **UNIVERSAL SERVICE TRUST FUND FOR THE MAINTENANCE AND OPERATION OF**
15 **THE PROGRAMS SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION IN THE**
16 **FOLLOWING FISCAL YEAR.**

17 (g) (1) The Legislative Auditor shall conduct postaudits of a fiscal and
18 compliance nature of the Universal Service Trust Fund and the expenditures made for
19 purposes of § 3A-504(a) of this subtitle and § 3A-602(a) of this title.

20 (2) The cost of the fiscal portion of the postaudit examination shall be
21 paid from the Universal Service Trust Fund as an administrative cost.

22 3A-601.

23 (a) In this subtitle the following words have the meanings indicated.

24 (c) "Program" means the program developed and administered by the
25 Department in consultation with the Board and the Department of Disabilities to
26 provide financial assistance for the purchase of specialized customer telephone
27 equipment by eligible program participants.

28 3A-602.

29 (a) In accordance with the State budget and § 3A-506 of this title, the
30 Department, in consultation with the Board and the Department of Disabilities, shall
31 establish and administer a program:

32 (1) to provide specialized customer telephone equipment to eligible
33 program participants; and

1 (2) to provide reimbursement of costs under § 3A–606 of this subtitle.

2 3A–606.

3 (a) The Department in consultation with the Board and the Department of
4 Disabilities shall enter into an agreement with the State Department of Education,
5 Division of Library Development and Services, providing for an annual payment to be
6 made to the Division in an amount equal to the cost incurred for the distribution of
7 newspapers in a computerized audio format.

8 (b) Under the agreement, the Division of Library Development and Services
9 shall provide eligible blind and disabled individuals with access to newspapers in a
10 computerized audio format by a qualified entity.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
12 construed to expand the jurisdiction of the Public Service Commission in any manner
13 over wireless or cellular telephone service or Voice over Internet Protocol (VoIP)
14 service.

15 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.